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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/628,081	07/25/2003	Ralph Simpson	687.06	3510

7590

06/29/2005

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EXAMINER

DONNELLY, JEROME W

ART UNIT

PAPER NUMBER

3764

DATE MAILED: 06/29/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/628,081

Applicant(s)

SIMPSON ET AL.

Examiner

Jerome W. Donnelly

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) ____ is/are rejected. 1-4
- 7) ☒ Claim(s) ____ is/are objected to. 5-7
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 7/25/03

- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____

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Claims 5-7 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Hinds, clearly anticipated.

Claim 4 is rejected under 35 U.S.C. 102(b) as being anticipated by Hopkins, Jr..

Hopkins discloses a device comprising an elastic strap, handles a first tubular section 24 and second and third sections (28) as broadly claim. The examiner notes that applicant discloses that these elements may be manufactured of flexible material of soft plastic, which would lead one of ordinary skill in the art to the conclusion that it would have been obvious to one of ordinary skill in the art to manufacture these components of foam rubber or rubbersized foam.

Claims 2 and 3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hinds in view of Donohue.

Hinds discloses a device comprising a resilient tube two handles and padding in the form of tubing.

Hinds does not disclose his device as including a waist belt having padding and a buckle means.

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Donohue however teaches mounting an exercise device having handles to a person using a belt means.

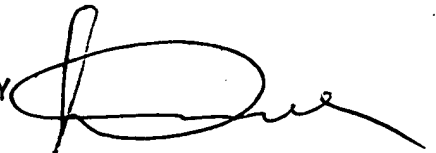
Given the above teaching the examiner notes that it would have been obvious to one of ordinary skill in the art to include a waist belt having buckle means as part of the invention of Hinds for the purposed of securing the device to the user.

The examiner notes that to include non-slip material on an inner surface of an exercise device is known and obvious for the purpose of limiting slippage of the device while in use.

As to the device include means for connecting a handle to the waist belt, the examiner is reading the claims so broad so as to read on the means being as part of the handle and/or a part of the belt.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Not the overall device of Van'l. Any inquiry concerning this communication should be directed to Jerome W. Donnelly at telephone number 571-272-4975.

JEROME W. DONNELLY
PRIMARY EXAMINER

A handwritten signature in black ink, appearing to read 'Jerome W. Donnelly', is written over the printed name and title.